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OFFICE OF PETITIONS

In re Application of
Cory L. Factor
Application No. 10/053,006
Filed: January 23, 2002
Attorney Docket No. 32938.1

ON PETITION

This is a decision on the petition filed April 5, 2007 to withdraw the holding of abandonment which is treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181 is **GRANTED**.

This application became abandoned June 27, 2006 for failure to file a timely response to the Office Action mailed May 25, 2006 which set a one month period for reply. Accordingly, a Notice of Abandonment was mailed March 22, 2007.

Petitioner claims that the Office Action mailed May 25, 2006 was never received at the address provided with the correspondence address change filed July 13, 2005 and that the Office Action was mailed to the previous address of record. . and Petitioner's argument is based on the fact that the oath properly indicated the correct address but instead the USPTO mailed it to the address on the application transmittal. Thus, the Notice was mailed to an incorrect address.

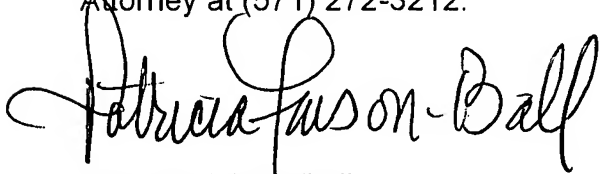
Although petitioners received all correspondence incorrectly addressed and mailed by the USPTO even after the change of correspondence was filed July 15, 2003 except the office action mailed May 25, 2006, a review of the evidence filed, including a copy of the docket wherein the Office Action would be noted if it had been received, establishes that the customer number provided with the change of correspondence address was not associated with this application. Thus, the Office Action was mailed to the wrong address and as petitioners claim, not received.

In view of the above, no petition fees are due and none have been charged.

Accordingly, the holding of abandonment is withdrawn and no petition fee is due.

This matter is being referred to Technology Center 2143 for a re-mailing of the Office Action originally mailed May 25, 2006 and for a restarting of the period for response.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink that reads "Patricia Faison-Ball". The signature is written in a cursive, flowing style with a large initial "P".

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions